IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Haruo Yoshida et al.

Application No.: 10/574,945

Confirmation No.: 7327

Filed: April 7, 2006

Art Unit: 2169

For: FILE MANAGING APPARATUS, FILE
MANAGING METHOD, FILE MANAGING
METHOD PROGRAM, AND RECORDING
MEDIUM THAT RECORDS FILE
MANAGING METHOD PROGRAM

Examiner: A. Ruiz

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

      This is a Reply Brief under 37 C.F.R. § 41.41 in response to the Examiner's Answer dated November 26, 2008.

      All arguments presented within the Appeal Brief dated September 9, 2008 are incorporated herein by reference. Additional arguments are provided herein.

I.   STATUS OF CLAIMS

Claims 1-14 are pending in this application and are the subject of this appeal. All of the pending claims have been rejected.

II.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issues presented for consideration in this appeal, with separate arguments as noted in the following sections, are as follows:

Whether the Examiner erred in rejecting claims 1-14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pub. No. 2003/0161616 A1 to Um et al. ("Um") in view of U.S. Pat. No. 5,659,742 to Beattie et al. ("Beattie").

These issues are discussed in the following section, with subsections corresponding to the separate arguments.

III.   ARGUMENT

VII.A   Introduction.

In the Final Office Action of March 10, 2008, the Examiner erred in rejecting claims 1-14 under 35 U.S.C. § 103(a) as being unpatentable over Um in view of Beattie. Consistent with the grouping of claims in the following sections, these rejections are variously deficient as noted in the separate arguments.

VII.B   The Um reference discloses a technique for placing references to files into groups, with no disclosure or suggestion of consolidating index file entries into a single movie file as claimed by Appellant.

Appellant's claim 1 recites: *[a] file managing apparatus for managing files recorded on a recording medium which has an index file recorded as a series of entries including blocks of extract information derived from and corresponding to said files to be managed;*

wherein said index file includes a plurality of files into which data including the extract information is divided by attribute and the plurality of files includes a property file having data representative of attributes of said files to be managed;
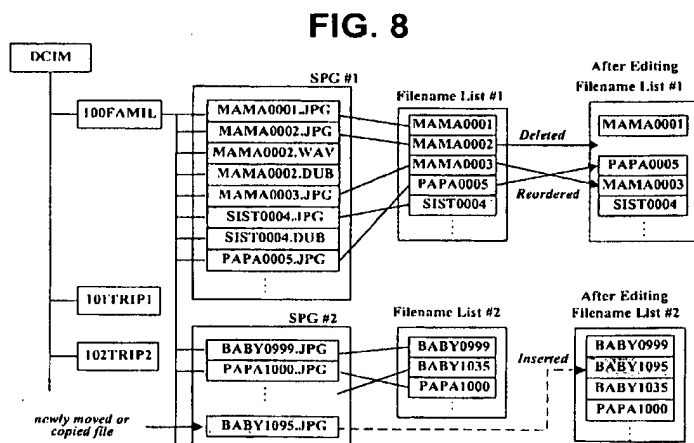
wherein said file managing apparatus records a still picture file in such a manner that an entry including extract information about the still picture file is registered into said index file, and reorganizes said index file in such a manner that a plurality of still picture files recorded on said recording medium are grouped into a single movie file; and

wherein the entries corresponding to said plurality of still picture files grouped into said movie file are deleted from said index file by setting a valid-invalid information as invalid in the property file to indicate that the corresponding extract information is invalid, while an entry including extract information about said movie file is registered into said index file.

These claimed features are neither disclosed nor suggested by Um. Um discloses a technique for organizing an index file by allowing the index files to be variously assigned to groups according to a filename list so that the particular groups can be easily managed separately from the other groups. The Um system allows the user to easily add or remove a still picture from a given group, without removing the still picture from the other groups that it resides in. This ostensibly allows improved management of the user's still pictures. This is quite different from Appellant's claimed invention, which has to do with consolidating the index entries for plural still picture files into a single movie file, rather than providing organizational listings of the picture files.

To explain, the Um system allows a user to put a given picture into multiple different groups. Then, for example, a slide show of each group could contain the given picture, but the given picture could be added and removed from the group without destroying the remaining membership of the group.

This is clearly evident in FIG. 8 of Um. For example, a new picture "BABY1095" may be added to filename list #2. Once this picture is in this filename list #2, that and the other pictures may be variously sequenced. There is no deletion of the index file for the picture, as the Um technique is merely organizing pictures into a file list.

FIG. 8

In Um, there is no deletion of the index file nor is there any impetus to do so, since Um has nothing whatsoever to do with consolidating numerous index file entries into a movie file. For example, the file "MAMA0002" may be removed from filename list #1 in the example shown in FIG. 8 of Um. It is clear that Um discloses an organizational tool that allows the still image files to be assigned to any number of groups. These groups are not movie files. Rather, they are merely a way of organizing the still image files.

Um thus fails to disclose or suggest "*wherein said file managing apparatus records a still picture file in such a manner that an entry including extract information about the still picture file is registered into said index file, and reorganizes said index file in such a manner that a plurality of still picture files recorded on said recording medium are grouped into a single movie file,*" or "*wherein the entries corresponding to said plurality of still picture files grouped into said movie file are deleted from said index file by setting a valid-invalid information as invalid in the property file to indicate that the corresponding extract information is invalid, while an entry including extract information about said movie file is registered into said index file,*" as claimed by Appellant. In Um, (1) there is no reorganization of the index files into a <u>single movie file</u>, (2) nor is

there any deleting of the index file entries for those still picture files grouped into the movie file, (3) nor is there any setting of a valid-invalid information as invalid in the property file in order to delete the index file, (4) nor is there registration of an entry include extract information about the movie file into the index file.

All of these features are absent from Um, and the ordinarily skilled artisan would have absolutely no inclination to include them in Um.

Appellant has variously made of record the desire for a clear identification of an example of the movie file in Um, and how Um discloses the above-described features (1)-(4).

First, the Final Office Action vaguely references claim 2 and the Abstract, but these merely restate what is described above, which is that Um merely organizes pictures with the filename list. The Action also states "[t]he STREAM being the movie file". This only further illustrates the impropriety of the rejection. STREAM merely refers to a directory in the DVR directory. This includes stream files (*.m2ts) containing actual motion-picture data stream packets. There is absolutely no mention of any kind of grouping still picture indices into a single movie file in Um. Additionally, even if one presumes that STREAM is a movie file, there is never any mention in Um of grouping still picture indices into a single STREAM file.

Attached comments in the Advisory Action then seemed to suggest that FIG. 2 of Um disclosed such features. This figure illustrates a standard DVR directory structure, which is updated to include the invention of Um in the dotted line portion. This portion clearly indicates that the organization of the still image files is in the STILLINF directory as a .stli filename. As clearly stated in Um, this is a still-picture information file that is stored under the directory STILLINF as also shown in FIG. 5. It is not a movie file. The .stli files of Um contain the filenames lists as shown in the figure and as previously explained to the Examiner. Thus, again, Um does not disclose grouping the plurality of still picture files "into a single movie file."

The Examiner's Answer now contains a section (10) Response to Argument that ostensibly addresses the shortcomings of the prior communications. On page 17 of the Answer, it is again alleged that the Abstract discloses "consolidating index file entries into a single movie file".

However, the cited language merely states that the system records pictures and then groups them into listings of file names of respective still pictures belonging to a group. This is not consolidation into a single movie file (here, the Examiner appears to be of the position that the SPG is a movie file).

The Answer then apparently alleges that ¶¶[0035], [0009], and [0045], along with a definition of the term MPEG, to allegedly exemplify how the SPG is representative of Appellant's claimed invention. (See Answer at pp. 17-18). The fact that the term MPEG is disclosed does not necessitate or support a conclusion that the specifically claimed features are present in the reference. To repeat, at least the following features are claimed: *"wherein said file managing apparatus records a still picture file in such a manner that an entry including extract information about the still picture file is registered into said index file, and **reorganizes said index file in such a manner that a plurality of still picture files recorded on said recording medium are grouped into a single movie file**.*" Nowhere does Um, in the newly cited passages or elsewhere, disclose or suggest these claimed features.

First, the "SPG information" or SPGI referenced in paragraph [0045] is not the SPG itself (see, e.g., FIG. 6). Secondly, as noted in paragraph [0043], FIG. 6 illustrates the still picture information file which is explained as having information pertaining to "type of still pictures". (Um, at [0043]). There is no mention at any point that any of this is a movie file. The Answer appears to allege that the mention of MPEG in [0045] evidences this, but this is not the case. Rather, [0045] of Um merely states that JPEG/TIFF/MPEG are possible coding modes for the picture attribute. This is merely indicating the type of coding applicable to the particular still picture corresponding to the picture attribute (MPEG may be used to encode still pictures just as the other examples of TIFF or JPEG may do the same).

Regardless, it is entirely speculative to conclude that any of this disclosure constitutes *"reorganiz[ing] said index file in such a manner that a plurality of still picture files recorded on said recording medium are grouped into a single movie file,"* as claimed by Applicant. The Examiner's pointing to a picture attribute in the SPGI only further highlights the deficiency of the

6

position taken in the Action and now the Examiner's Answer. There is no mention whatsoever of these claimed features.

Regarding the above-described features, the Answer also appears to allege that ¶[0042] of Um discloses the claimed reorganization of the index file. (Answer, at p. 19). However, the passage merely describes a playlist file defining the presentation order of data files. This clearly does not in any way describe reorganizing an index file (into which still pictures are previously registered) in such a manner that plural still picture files that had been recorded are grouped into a single movie file. Again, all that is shown is that Um can organize a sequence of items to be played, which is not reorganizing previously recorded still pictures into a single movie file as claimed.

The Answer also makes a reference to [0029] of Um and the meaning of the term motion picture in an attempt to allege that Um discloses the claimed "movie file" features. At best, this passage indicates that an MPEG stream may be selected and input to the DVR encoder. This has no bearing whatsoever on "*reorganiz[ing] said index file in such a manner that a plurality of still picture files recorded on said recording medium are grouped into a single movie file*," as claimed by Applicant. Merely pointing to the fact that an MPEG stream may be encoded does not in any way disclose of suggest these claimed features.

Finally, in this section, the Answer also appears to address the deficiency of Um regarding the claimed features "*wherein the entries corresponding to said plurality of still picture files grouped into said movie file are deleted from said index file by setting a valid-invalid information as invalid in the property file to indicate that the corresponding extract information is invalid, while an entry including extract information about said movie file is registered into said index file*," which are treated in the next section.

VII.C   The deficiencies of the Um reference extend beyond the characterization in the Final Office Action, and the Beattie reference clearly fails to remedy these deficiencies.

The Action states Um does not disclose "deleted from said index file." However, this is clearly an over-simplification of the deficiencies of Um. As noted above, there are various features

(at least features (1)-(4) noted above) that are absent from the reference. Also, with regard to deleting the index file, not only does Um not disclose deleting the index file even generally, it also does not disclose the particular fashion in which deletion is carried out, specifically, "*wherein the entries corresponding to said plurality of still picture files grouped into said movie file are deleted from said index file by setting a valid-invalid information as invalid in the property file to indicate that the corresponding extract information is invalid, while an entry including extract information about said movie file is registered into said index file*," as claimed by Appellant.

In the Answer, this clear deficiency is not particularly well addressed, but there is some mention that the features are allegedly contained in the Abstract and ¶[0014] of Um. (See Answer at pp. 18-19). However, all that these passages support is a conclusion that Um allows a person to delete a still image from a filename listing. There is no mention of deleting index entries for still picture files in the fashion claimed by Applicant, or doing so in conjunction with registering into an index file an entry including extract information about the movie file into which the deleted still picture files are grouped.

As previously noted, Beattie does not remedy the deficiencies of Um. Beattie discloses a method for storing multimedia information in an information retrieval system. Beattie discloses a database that stores image and text information that can both be retrieved in response to a single query. The passage cited in the Action (31:26-39) merely speaks to the management of an index table, and how the table is updated when image and text information is deleted from the database.

Beattie is clearly even further removed from Appellant's claimed invention than Um. Beattie, having nothing to do with consolidating still picture index files into a single movie file, offers no pertinent disclosure to the noted deficiencies of Um. The mere disclosure of the management of an index table in no way discloses "*wherein the entries corresponding to said plurality of still picture files grouped into said movie file are deleted from said index file by setting a valid-invalid information as invalid in the property file to indicate that the corresponding extract information is invalid, while an entry including extract information about said movie file is registered into said index file*," as claimed by Appellant.

Thus, whether alone or in any combination, in Um and Beattie, (1) there is no reorganization of the index files into a <u>single movie file,</u> (2) there is no deleting of the index file entries for those still picture files grouped into the movie file, (3) there is no setting of a valid-invalid information as invalid in the property file in order to delete the index file, and (4) there is no registration of an entry include extract information about the movie file into the index file.

Since various features are absent from even the combination of Um and Beattie, Appellant submits that a *prima facie* case of obviousness has not been presented for independent claim 1.

For all of the foregoing reasons, Appellant submits that claim 1 is patentably distinct from the relied upon references, as are independent claims 12-14 for similar reasons. Dependent claims 2-11 are patentably distinct for their incorporation of the features recited in the independent claims as well as there separately recited patentably distinct features.

VII.D   Um and Beattie also fail to disclose or suggest dependent claim 3.

Appellant's dependent claim 3 recites: *[t]he file managing apparatus according to claim 1, wherein said movie file is a self-contained type file which has real data representative of picture data related to said plurality of still picture files and which offers the corresponding still pictures based on said real data;*

wherein said file managing apparatus forms said movie file by successively acquiring said picture data from said plurality of still picture files; and

wherein, upon deleting from said index file the entries corresponding to said plurality of still picture files grouped into said movie file, said file managing apparatus also deletes said plurality of still picture files.

Um offers absolutely no disclosure or suggestion of these claimed features. As recited in claim 3, the file managing apparatus <u>forms</u> said movie file by successively acquired picture data. In conjunction with that, it deletes the entries in the index file for the still picture files and also deletes

9

the still picture file. Um discloses nothing remotely like these claimed features. Um, again, merely organizes files into groups. There is no formation of a movie file using the actual still picture files.

The reference to FIG. 4 and the "SPG" merely provides an example of listing files in a group. This is not an example of forming a movie file from still pictures. As noted, Beattie offers no disclosure of any kind regarding the particulars of Appellant's claimed invention and clearly does not disclose these claimed features as well. As the combination of references clearly fails to disclose the claimed features, a *prima facie* case of obviousness remains absent from the record.

The Answer refers to FIG. 3 and ¶¶[0028],[0029] of Um as alleged evidence of these claimed features. (Answer, at pp. 21-22). As indicated above, DVR encoding is not an instance of what is claimed by Applicant, namely forming a movie file from still pictures, and moreover doing so in the fashion claimed by Applicant. That is, [0028] merely discloses that still picture video and audio may be converted from motion picture data, and [0029] merely discloses selecting content input to the DVR Encoder (18). This fails to disclose or suggest the features of claim 1, as noted in detail above, as well as the additional features of claim 3. With regard to the independent claim, there is no disclosure or suggestion of *"wherein said file managing apparatus records a still picture file in such a manner that an entry including extract information about the still picture file is registered into said index file, and reorganizes said index file in such a manner that a plurality of still picture files recorded on said recording medium are grouped into a single movie file,"* or *"wherein the entries corresponding to said plurality of still picture files grouped into said movie file are deleted from said index file by setting a valid-invalid information as invalid in the property file to indicate that the corresponding extract information is invalid, while an entry including extract information about said movie file is registered into said index file,"* and with regard to claim 3, there is no mention of the deleting process pursuant to reorganization into a single movie file as claimed (at best, a filename is deleted from a filename list in Um).

VII.E   Um and Beattie also fail to disclose or suggest dependent claims 4 and 5.

By way of example, Appellant's dependent claim 4 recites: *... wherein said extract information is organized into groups by attribute of said extract information so that entries of thumbnail images representative of said still picture files are formed in said index file;*

wherein said file managing apparatus acquires data about said thumbnail images representative of said plurality of still picture files from said index file and associates the acquired data with said still picture files so as to form groups of real data including the data about said thumbnail images in said movie file; and

wherein said file managing apparatus deletes the entries of said thumbnail images representative of said still picture files recorded in said index file.

The Action refers to the Abstract of Um for alleged disclosure of these claimed features, but there is no apparent description of any kind therein regarding the above-recited features. At best, Um may store thumbnails in some fashion in the directory structure. This, however, in no way discloses acquiring the thumbnail data and forming it into the movie file, nor does it disclose deleting the entries of the thumbnail images, both as claimed by Appellant. Once again, Beattie also offers no mention of any kind regarding thumbnail images, forming the movie file, or deleting the particular entries as claimed by Appellant. A *prima face* case of obviousness is thus also absent from the record with regard to these claimed features.

The reference to [0030] in the Answer merely reiterates that Um may store thumbnails, with no additional disclosure to support a conclusion that the features in claims 4 and 5 are in any way disclosed therein.
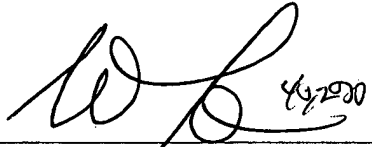
Accordingly, Appellant respectfully requests reversal of the Examiner's rejection of claims 1-14 under 35 U.S.C. § 103(a) as being unpatentable over Um in view of Beattie.

11

The claims are considered allowable for the same reasons discussed above, as well as for the additional features they recite.

Reversal of the Examiner's decision is respectfully requested.

Dated: January 23, 2009   Respectfully submitted,

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